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# Congress of the United States

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January 25, 2008

Mr. James L. Connaughton  
Chairman  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503

Dear Mr. Chairman:

You recently used the emergency regulatory provisions of the National Environmental Policy Act (NEPA) to authorize the United States Navy to proceed with sonar training exercises off the coast of Southern California without understanding or sufficiently mitigating the effects on whales. This action appears to be inconsistent with the intent and historical use of those provisions.

Since the emergency regulations were promulgated in 1978, the Council on Environmental Quality (CEQ) has exercised authority under these provisions in just 41 cases. For your convenience, I have attached a list of these actions which was prepared by CEQ. This list demonstrates that CEQ has used this authority only rarely over years.

A review of the precedents shows that CEQ has invoked its emergency authority in moments of true urgency. CEQ has used its authorities:

- To stop an outbreak of encephalitis in Arizona.
- To prevent the collapse of a historic building and remove hazardous asbestos.
- To stop the spread of an incurable disease among steelhead trout in a California fishery.
- To remove unexploded ordnance exposed by natural wave process in a beach community.
- To prevent the collapse of Wolf Creek Dam and the consequent flooding of the Cumberland River Valley.
- To prevent the imminent extinction of the California condor.
- To rebuild the levees damaged by Hurricane Katrina for 100-year flood protection.
- To accept delivery of spent nuclear fuel rods which, if sent elsewhere, could be used to make nuclear weapons.
- To allow for troops and military supplies to be transported into combat operations during Operation Desert Shield.

Mr. James L. Connaughton

January 25, 2008

Page 2

As these examples show, CEQ has traditionally used its emergency powers sparingly, in times of genuine urgency, with conditions that apply NEPA's spirit of public input and environmental protection to the fullest extent possible. There is no similar emergency in the case of the Navy training exercises. Moreover, CEQ never used its authority to effectively override a court order as has been done in this case.

The emergency arrangements regulations under NEPA were designed to streamline the NEPA process in true emergencies. The regulations were not designed to undermine environmental protections or reverse court decisions the Administration disagrees with. I urge you to reverse your decision in this matter.

Sincerely,



Henry A. Waxman  
Chairman

Enclosure

cc: Tom Davis  
Ranking Minority Member